

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

FRIDAY, THE FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and

THE HON'BLE MR JUSTICE M.NARAYANA REDDY

WRIT APPEAL NO : 2139 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated
17/11/2004 in WP NO : 15884 OF 2003 on the file of the High Court.)

Between:

Y. Kullayappa, S/o. Y. Venkatappa,
R/o. Muktapuram Village, Mudigubba Mandal, Presently Res. at D.No. 1/826,
Near R&B bunglaw, Mudigubba, Anantapur District.

..... APPELLANT

AND

- 1 The Revenue Divisional Officer, Penukonda, Anantapur District.
- 2 the Mandal Revenue Officer, Mudigubba Mandal, Anantapur District.
- 3 Smt. Y. Venkatalakshamma, W/o. Venkatanayarayana,
Res. of Mukthapuram Village, Mudgubba Mandal, Anantapur District.

.....RESPONDENT(S)

Counsel for the Appellant:MR.O.MANOHER REDDY

Counsel for the Respondent Nos. 1 and 2: G.P. for Revenue

Counsel for the Respondent No.3: MR.P.VEERA REDDY

The Court made the following Oral Judgment: (per Sri Devinder Gupta, CJ)

We have perused the record of the Revenue Divisional Officer and find that though notices dated 25.5.2003 are stated to have been dispatched on 27.5.2003 to the appellant as well as the 3rd respondent, but there is no material on record to suggest that notices were either served upon the appellant or 3rd respondent intimating them of the date of hearing being 31.5.2003. The grievance of the appellant is that no notice was served upon him before the matter was decided by the 1st respondent.

Learned single judge though had called for the record and observed that notice has been dispatched, but has not recorded any finding whether or not it was duly served upon the appellant or not. Mere fact that notice was dispatched on a particular day, will not give rise to a presumption that notice was duly served upon the appellant. Had the records revealed service of notice by any mode, there would not have been any necessity to examine the persons who accepted the notice, in the event of either of the party urging that notices are not so served. But the question is whether on or before 31.5.2003, the appellant was duly intimated of the date of hearing, for which notice was stated to have been dispatched only on 25.5.2003. In the absence of any material on record that notice was served upon the appellant, we have to necessarily hold that the order passed by the Revenue Divisional Officer is in violation of principles of natural justice.

Appeal is accordingly allowed. The impugned order is set aside. The writ petition is also allowed. The order of Revenue Divisional Officer, Anantapur District dated 13.6.2003 and the consequential order of the Mandal Revenue Officer, Anantapur District, dated 15.7.2003 are quashed with direction to the 1st respondent to decide the case afresh in accordance with law for which purpose we direct that the appellant and 3rd respondent shall remain present before the Revenue Divisional Officer, Anantapur on 2.3.2005. The Revenue Divisional Officer will decide the case in accordance with law. It will however be open for the appellant to raise all questions including the question of maintainability of the appeal and jurisdiction

before the Revenue Divisional Officer. No costs.

DEVINDER GUPTA, CJ

Date: 4th February, 2005

M. NARAYANA REDDY,J

Pnb

To

- 1 The Revenue Divisional Officer, Penukonda, Anantapur District.
- 2 The Mandal Revenue Officer, Mudigubba Mandal, Anantapur District.
- 3 Smt. Y. Venkatalakshamma, W/o. Venkatanayarayana,
Res. of Mukthapuram Village, Mudgubba Mandal, Anantapur District.